

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF LEWIS COUNTY RELATING)	
TO LAND USE AND ZONING AND RESCINDING THE)	
MORATORIUM ON RECEIPT OF APPLICATIONS FOR)	ORDINANCE NO. 1211
DEVELOPMENT WITHIN LANDS UNDER REVIEW)	
FOR DESIGNATION AS AGRICULTURAL RESOURCE)	
LANDS EXCEPTING THOSE UNDER RCW 36.70A.302(3)(b))	
PURSUANT TO RCW 36.70A.390, 36.70.795 & 35.63.200)	

WHEREAS, the Board of Lewis County Commissioners makes the following findings:

A. The Board of County Commissioners adopted Emergency Ordinance 1191, on November 13, 2006, and Ordinance 1193, on April 20, 2007, after the Western Washington Growth Management Hearings Board (Hearings Board) issued Orders on February 13, 2004, and on May 21, 2004 in *Panesko/Butler et al., v. Lewis County, et al., WWGMHB Consol. No. 00-2-0031c* and finding noncompliance and invalidity as to the County's 2003 designation of Agricultural Resource Lands under the Growth Management Act and of its designation of certain uses on Agricultural Resource Lands and of permissible uses on Forest Resource Lands; and

B. Ordinances 1191 and 1193 imposed a moratorium on land use applications (except for those applications under RCW 36.70A.302(3)(b)) pertaining to lands "subject to" the Hearings Board orders imposing invalidity; and

C. "Lands subject to" noncompliance and invalidity were further addressed by the Washington Supreme Court on August 10, 2006 in *Lewis County v. WWGMHB, et al.*, 157 Wn.2d 488, 139 P.3d 1096 (2006), and by a further Hearings Board Order finding non-compliance and imposing determination of invalidity and setting a new schedule for compliance on June 8, 2007; and

D. The moratorium imposed by Ordinance 1193 was subsequently renewed under Ordinances 1193A, adopted May 14, 2007, Ordinance 1193B, adopted November 5, 2007, Ordinance 1193C, adopted May 5, 2008, and Ordinance 1193D adopted November 3, 2008, pursuant to RCW 36.70A.390, 36.70.795 and 35.63.200; and

E. The Hearings Board issued a further Compliance Order and Final Decision and Order on July 7, 2008 (08-2-004: *Dennis Hadaller, et al v. Lewis County*, Final Decision and Order, WWGMHB) finding invalidity and directing the County to reevaluate designation of Agricultural Resource Lands to meet compliance by February 6, 2009; and

F. Ordinance 1206, having been adopted on April 29, 2009 in response to the Compliance Order and Final decision and extending the moratorium on development for certain lands under invalidity until October 27, 2009; and

G. Ordinance 1209, having been adopted on October 7, 2009 extended the moratorium for six (6) months until April 7, 2010; and

H. The County completed the process of; (a) designating certain additional lands as Agriculture Resource Lands of Long Term Commercial Significance (ARL); (b) revising the Lewis County Comprehensive Plan Land Use Element and Maps to implement the designations; and (c) revising Lewis County Code chapter 17 to implement the resource designation in early August 2009 and subsequently submitted the same to the WWGMHB for review and a compliance hearing on October 16, 2009; and

I. The WWGMHB issued a Final Compliance Order and Order Rescinding Invalidity on December 29, 2009 finding Lewis County has fully complied with its obligation to designate Agricultural Resource Lands under the Growth Management Act and that the County's Comprehensive Plan and development regulations do not substantially interfere with the Growth Management Act ; and

J. In the same decision the WWGMHB rescinded and removed the Invalidity Orders placed on Lewis County; and

K. Lewis County Comprehensive Plan map designations, land use policies, and development regulations adopted by Resolution Number 09-251 and Ordinance 1207 are adequate to protect agricultural resource lands and to maintain and enhance the agricultural industry; and

L. The moratorium imposed on Lewis County by Ordinance 1191 and subsequently extended by Ordinance Nos. 1193, 1193A, 1193B, 1193C, 1193D, 1206 and 1209, are redundant to the recently adopted ARLs land use designations and development regulations and provide no additional protection to the adopted regulations; NOW THEREFORE,

BE IT ORDAINED by the Board of County Commissioners, as follows:

Section 1. The Board adopts and incorporates herein the WWGMHB Final Compliance Order and Order Rescinding Invalidity Case Nos. 00-2-0031c/99-2-0027c/08-2-0004c dated December 29, 2009 finding the Lewis County Comprehensive Plan, its maps and implementing development regulations in Compliance with RCW 36.70A, and rescinding and removing the Invalidity Orders previously imposed by WWGMHB.

Section 2. This Ordinance repeals all portions of prior moratoria enactments affecting those lands within Lewis County including: a) lands delineated in the Order on Extent of Invalidity on May 21, 2004 (which lands by virtue of their 'prime soils' characteristics and mapping have been highlighted by the Hearings Board for such consideration) and those lands previously mapped by the County as Class A and B Agricultural Resource Lands (which lands by virtue of prior findings and mapping by the County are readily identifiable for such consideration), and b)

which are compliant with the remaining Agricultural Resource Lands designation and uses sections of Ch. 17.30 LCC.

Section 3. This ordinance enables and authorizes the County to receive and process applications for development on all lands within its boundaries except those lands within incorporated jurisdictions or established urban growth areas where inter-local agreements assign that authority to an incorporated city.

Section 4. "Development" or "development applications" and "land use" shall mean any application or permitting submission or request for land use review, approvals or authorizations by the County or the Lewis County Board of Health, as those terms are applied within Chapters 36.70A & 36.70B RCW, and within the Lewis County Code.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid at law, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 6. The effective date of this Ordinance shall be the date of adoption.

PASSED IN REGULAR SESSION this day of January 25, 2010, after public hearing, pursuant to Notice published on the 30th day of December in the *East County Journal* and *The Chronicle*.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

Clerk of the Board

- seal -

Chairman

APPROVED AS TO FORM:
MICHAEL GOLDEN, Prosecuting Attorney

Member

By: _____
Civil Deputy

Member